

## 2005 SENATE BILL 563

1     **AN ACT** *to amend* 71.05 (6) (a) 15., 71.08 (1) (intro.), 71.10 (4) (i), 71.21 (4), 71.26  
2           (2) (a), 71.34 (1) (g), 71.45 (2) (a) 10. and 77.92 (4); and **to create** 20.835 (2) (bm),  
3           71.07 (5f), 71.07 (5h), 71.10 (4) (en), 71.10 (4) (ga), 71.28 (5f), 71.28 (5h), 71.30  
4           (3) (epp), 71.30 (3) (epr), 71.47 (5f), 71.47 (5h), 71.49 (1) (epp), 71.49 (1) (epr) and  
5           560.206 of the statutes; **relating to:** creating income and franchise tax credits  
6           for expenses related to film production services and for capital investments  
7           made by a film production company, requiring the exercise of rule-making  
8           authority, and making an appropriation.

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### *Analysis by the Legislative Reference Bureau*

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

9           **SECTION 1.** 20.835 (2) (bm) of the statutes is created to read:  
10           20.835 **(2)** (bm) *Film production services credit.* A sum sufficient to make the  
11           payments under ss. 71.07 (5f) (d) 2., 71.28 (5f) (d) 2., and 71.47 (5f) (d) 2.

**SENATE BILL 563****SECTION 2**

**SECTION 2.** 71.05 (6) (a) 15. of the statutes is amended to read:

71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), ~~and (5d), (5f).~~ and (5h) and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership's, company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

**SECTION 3.** 71.07 (5f) of the statutes is created to read:

71.07 **(5f)** FILM PRODUCTION SERVICES CREDIT. (a) *Definitions.* In this subsection:

1. "Accredited production" means a film, video, electronic game, broadcast advertisement, or television production, as approved by the department of commerce, for which the aggregate salary and wages included in the cost of the production for the period ending 12 months after the month in which the principal filming or taping of the production begins exceeds \$100,000 for a production that is 30 minutes or longer or \$50,000 for a production that is less than 30 minutes. "Accredited production" does not include any of the following, regardless of the production costs:

a. News, current events, or public programming or a program that includes weather or market reports.

b. A talk show.

c. A production with respect to a questionnaire or contest.

d. A sports event or sports activity.

e. A gala presentation or awards show.

f. A finished production that solicits funds.

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1           g. A production for which the production company is required under 18 USC  
2       2257 to maintain records with respect to a performer portrayed in a single media or  
3       multimedia program.

4           h. A production produced primarily for industrial, corporate, or institutional  
5       purposes.

6           2. “Claimant” means a film production company that operates an accredited  
7       production in this state, if the company owns the copyright in the accredited  
8       production or has contracted directly with the copyright owner or a person acting on  
9       the owner’s behalf and if the company has a viable plan, as determined by the  
10      department of commerce, for the commercial distribution of the finished production.

11          3. “Production expenditures” means any expenditures that are incurred in this  
12      state and directly used to produce an accredited production, including expenditures  
13      for set construction and operation, wardrobes, make-up, clothing accessories,  
14      photography, sound recording, sound synchronization, sound mixing, lighting,  
15      editing, film processing, film transferring, special effects, visual effects, renting or  
16      leasing facilities or equipment, renting or leasing motor vehicles, food, lodging, and  
17      any other similar expenditure as determined by the department of commerce.

18      “Production expenditures” include expenditures for music that is performed,  
19      composed, or recorded by a musician who is a resident of this state or published or  
20      distributed by an entity that has its headquarters in this state; air travel that is  
21      purchased from a travel agency or company that has its headquarters in this state;  
22      and insurance that is purchased from an insurance agency or company that has its  
23      headquarters in this state. “Production expenditures” do not include salary or wages  
24      or expenditures for the marketing and distribution of an accredited production.

**SENATE BILL 563****SECTION 3**

1           (b) *Filing claims.* Subject to the limitations provided in this subsection, for  
2 taxable years beginning after December 31, 2007, a claimant may claim as a credit  
3 against the tax imposed under s. 71.02 any of the following amounts:

4           1. An amount equal to 25 percent of the salary or wages paid by the claimant  
5 to the claimant's employees in the taxable year for services rendered in this state to  
6 produce an accredited production and paid to employees who were residents of this  
7 state at the time that they were paid.

8           2. An amount equal to 25 percent of the production expenditures paid by the  
9 claimant in the taxable year to produce an accredited production.

10          3. An amount equal to the taxes imposed under ss. 77.52 and 77.53 that the  
11 claimant paid in the taxable year on the purchase of tangible personal property and  
12 taxable services that are used directly in producing an accredited production in this  
13 state, including all stages from the final script stage to the distribution of the finished  
14 production.

15          (c) *Limitations.* 1. No amount of the salary or wages paid under par. (b) 1. may  
16 be the basis for a credit under this subsection unless the salary or wages are paid for  
17 services rendered after December 31, 2007, and directly incurred to produce the  
18 accredited production.

19          2. The total amount of the credits that may be claimed by a claimant under par.  
20 (b) 1. shall not exceed an amount equal to the first \$25,000 of salary or wages paid  
21 to each of the claimant's employees, as described in par. (b), in the taxable year, not  
22 including the salary or wages paid to the claimant's 2 highest paid employees, as  
23 described in par. (b), in the taxable year.

24          3. No credit may be allowed under this subsection unless the claimant files an  
25 application with the department of commerce, at the time and in the manner

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1 prescribed by the department of commerce, and the department of commerce  
2 approves the application. The claimant shall submit a copy of the approved  
3 application with the claimant's return.

4 4. Partnerships, limited liability companies, and tax-option corporations may  
5 not claim the credit under this subsection, but the eligibility for, and the amount of,  
6 the credit are based on their payment of amounts under par. (b). A partnership,  
7 limited liability company, or tax-option corporation shall compute the amount of  
8 credit that each of its partners, members, or shareholders may claim and shall  
9 provide that information to each of them. Partners, members of limited liability  
10 companies, and shareholders of tax-option corporations may claim the credit in  
11 proportion to their ownership interest.

12 (d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the  
13 credit under s. 71.28 (4), applies to the credits under this subsection. Section 71.28  
14 (4) (f), as it applies to the credit under s. 71.28 (4), applies to the credits under par.  
15 (b) 1. and 3.

16 2. If the allowable amount of the claim under par. (b) 2. exceeds the tax  
17 otherwise due under s. 71.02 or 71.08 or no tax is due under s. 71.02 or 71.08, the  
18 amount of the claim not used to offset the tax due shall be certified by the department  
19 of revenue to the department of administration for payment by check, share draft,  
20 or other draft drawn from the appropriation account under s. 20.835 (2) (bm).

21 **SECTION 4.** 71.07 (5h) of the statutes is created to read:

22 **71.07 (5h)** FILM PRODUCTION COMPANY INVESTMENT CREDIT. (a) *Definitions.* In  
23 this subsection:

24 1. "Claimant" means a person who files a claim under this subsection and who  
25 does business in this state as a film production company.

**SENATE BILL 563****SECTION 4**

1           2. “Film production company” means an entity that creates films, videos,  
2       electronic games, broadcast advertisement, or television productions, not including  
3       the productions described under s. 71.07 (5f) (a) 1. a. to h.

4           3. “Physical work” does not include preliminary activities such as planning,  
5       designing, securing financing, researching, developing specifications, or stabilizing  
6       property to prevent deterioration.

7           4. “Previously owned property” means real property that the claimant or a  
8       related person owned during the 2 years prior to doing business in this state as a film  
9       production company and for which the claimant may not deduct a loss from the sale  
10      of the property to, or an exchange of the property with, the related person under  
11      section 267 of the Internal Revenue Code.

12          (b) *Filing claims.* Subject to the limitations provided in this subsection, for  
13      taxable years beginning after December 31, 2007, a claimant may claim as a credit  
14      against the tax imposed under s. 71.02, up to the amount of the taxes, for the first  
15      3 taxable years that the claimant is doing business in this state as a film production  
16      company, an amount that is equal to 15 percent of the following that the claimant  
17      paid in the taxable year to establish a film production company in this state:

18          1. The purchase price of depreciable, tangible personal property.

19          2. The amount expended to acquire, construct, rehabilitate, remodel, or repair  
20      real property.

21          (c) *Limitations.* 1. A claimant may claim the credit under par. (b) 1., if the  
22      tangible personal property is purchased after December 31, 2007, and the personal  
23      property is used for at least 50 percent of its use in the claimant’s business as a film  
24      production company.

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1           2. A claimant may claim the credit under par. (b) 2. for an amount expended  
2     to construct, rehabilitate, remodel, or repair real property, if the claimant began the  
3     physical work of construction, rehabilitation, remodeling, or repair, or any  
4     demolition or destruction in preparation for the physical work, after December 31,  
5     2007, or if the completed project is placed in service after December 31, 2007.

6           3. A claimant may claim the credit under par. (b) 2. for an amount expended  
7     to acquire real property, if the property is not previously owned property and if the  
8     claimant acquires the property after December 31, 2007, or if the completed project  
9     is placed in service after December 31, 2007.

10          4. No claim may be allowed under this subsection unless the department of  
11     commerce certifies, in writing, that the credits claimed under this subsection are for  
12     expenses related to establishing a film production company in this state and the  
13     claimant submits a copy of the certification with the claimant's return.

14          5. Partnerships, limited liability companies, and tax-option corporations may  
15     not claim the credit under this subsection, but the eligibility for, and the amount of,  
16     the credit are based on their payment of amounts under par. (b). A partnership,  
17     limited liability company, or tax-option corporation shall compute the amount of  
18     credit that each of its partners, members, or shareholders may claim and shall  
19     provide that information to each of them. Partners, members of limited liability  
20     companies, and shareholders of tax-option corporations may claim the credit in  
21     proportion to their ownership interests.

22          (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under  
23     s. 71.28 (4), applies to the credits under this subsection.

24          **SECTION 5.** 71.08 (1) (intro.) of the statutes, as affected by 2005 Wisconsin Act  
25     25, is amended to read:

**SENATE BILL 563****SECTION 5**

1           **71.08 (1) IMPOSITION.** (intro.) If the tax imposed on a natural person, married  
2 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under  
3 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3n), (3s),  
4 (3t), (5b), (5d), (5f), (6), (6e), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx),  
5 (1fd), (2m), (3), (3n), and (3t) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx),  
6 (1fd), (2m), (3), (3n), and (3t) and subchs. VIII and IX and payments to other states  
7 under s. 71.07 (7), is less than the tax under this section, there is imposed on that  
8 natural person, married couple filing jointly, trust, or estate, instead of the tax under  
9 s. 71.02, an alternative minimum tax computed as follows:

10           **SECTION 6.** 71.10 (4) (en) of the statutes is created to read:

11           **71.10 (4) (en)** Film production company investment credit under s. 71.07 (5h).

12           **SECTION 6m.** 71.10 (4) (ga) of the statutes is created to read:

13           **71.10 (4) (ga)** Film production services credit under s. 71.07 (5f) (b) 1. and 3.

14           **SECTION 7.** 71.10 (4) (i) of the statutes, as affected by 2005 Wisconsin Act 25,  
15 is amended to read:

16           **71.10 (4) (i)** The total of claim of right credit under s. 71.07 (1), farmland  
17 preservation credit under subch. IX, homestead credit under subch. VIII, farmland  
18 tax relief credit under s. 71.07 (3m), farmers' drought property tax credit under s.  
19 71.07 (2fd), film production services credit under s. 71.07 (5f) (b) 2., veterans and  
20 surviving spouses property tax credit under s. 71.07 (6e), earned income tax credit  
21 under s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes withheld under  
22 subch. X.

23           **SECTION 8.** 71.21 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is  
24 amended to read:



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1           71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
2           (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), and (5f), (5g), and (5h) and  
3           passed through to partners shall be added to the partnership's income.

4           **SECTION 9.** 71.26 (2) (a) of the statutes, as affected by 2005 Wisconsin Act 74,  
5           is amended to read:

6           71.26 (2) (a) *Corporations in general.* The “net income” of a corporation means  
7           the gross income as computed under the Internal Revenue Code as modified under  
8           sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
9           computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)  
10          7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income  
11          under this paragraph at the time that the taxpayer first claimed the credit plus the  
12          amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),  
13          (1ds), (1dx), (3g), (3n), (3t), (5b), and (5f), (5g), and (5h) and not passed through by  
14          a partnership, limited liability company, or tax-option corporation that has added  
15          that amount to the partnership's, limited liability company's, or tax-option  
16          corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from  
17          the sale or other disposition of assets the gain from which would be wholly exempt  
18          income, as defined in sub. (3) (L), if the assets were sold or otherwise disposed of at  
19          a gain and minus deductions, as computed under the Internal Revenue Code as  
20          modified under sub. (3), plus or minus, as appropriate, an amount equal to the  
21          difference between the federal basis and Wisconsin basis of any asset sold,  
22          exchanged, abandoned, or otherwise disposed of in a taxable transaction during the  
23          taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

24          **SECTION 10.** 71.28 (5f) of the statutes is created to read:

25          71.28 (5f) FILM PRODUCTION SERVICES CREDIT. (a) *Definitions.* In this subsection:

**SENATE BILL 563****SECTION 10**

1           1. “Accredited production” means a film, video, electronic game, broadcast  
2 advertisement, or television production, as approved by the department of  
3 commerce, for which the aggregate salary and wages included in the cost of the  
4 production for the period ending 12 months after the month in which the principal  
5 filming or taping of the production begins exceeds \$100,000 for a production that is  
6 30 minutes or longer or \$50,000 for a production that is less than 30 minutes.  
7 “Accredited production” does not include any of the following, regardless of the  
8 production costs:

9           a. News, current events, or public programming or a program that includes  
10 weather or market reports.

11           b. A talk show.

12           c. A production with respect to a questionnaire or contest.

13           d. A sports event or sports activity.

14           e. A gala presentation or awards show.

15           f. A finished production that solicits funds.

16           g. A production for which the production company is required under 18 USC  
17 2257 to maintain records with respect to a performer portrayed in a single media or  
18 multimedia program.

19           h. A production produced primarily for industrial, corporate, or institutional  
20 purposes.

21           2. “Claimant” means a film production company that operates an accredited  
22 production in this state, if the company owns the copyright in the accredited  
23 production or has contracted directly with the copyright owner or a person acting on  
24 the owner’s behalf and if the company has a viable plan, as determined by the  
25 department of commerce, for the commercial distribution of the finished production.

**SENATE BILL 563****SECTION 10**

1           3. “Production expenditures” means any expenditures that are incurred in this  
2     state and directly used to produce an accredited production, including expenditures  
3     for set construction and operation, wardrobes, make-up, clothing accessories,  
4     photography, sound recording, sound synchronization, sound mixing, lighting,  
5     editing, film processing, film transferring, special effects, visual effects, renting or  
6     leasing facilities or equipment, renting or leasing motor vehicles, food, lodging, and  
7     any other similar expenditure as determined by the department of commerce.  
8     “Production expenditures” include expenditures for music that is performed,  
9     composed, or recorded by a musician who is a resident of this state or published or  
10    distributed by an entity that has its headquarters in this state; air travel that is  
11    purchased from a travel agency or company that has its headquarters in this state;  
12    and insurance that is purchased from an insurance agency or company that has its  
13    headquarters in this state. “Production expenditures” do not include salary or wages  
14    or expenditures for the marketing and distribution of an accredited production.

15           (b) *Filing claims.* Subject to the limitations provided in this subsection, for  
16    taxable years beginning after December 31, 2007, a claimant may claim as a credit  
17    against the tax imposed under s. 71.23 any of the following amounts:

18           1. An amount equal to 25 percent of the salary or wages paid by the claimant  
19    to the claimant’s employees in the taxable year for services rendered in this state to  
20    produce an accredited production and paid to employees who were residents of this  
21    state at the time that they were paid.

22           2. An amount equal to 25 percent of the production expenditures paid by the  
23    claimant in the taxable year to produce an accredited production.

24           3. An amount equal to the taxes imposed under ss. 77.52 and 77.53 that the  
25    claimant paid in the taxable year on the purchase of tangible personal property and

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1 taxable services that are used directly in producing an accredited production in this  
2 state, including all stages from the final script stage to the distribution of the finished  
3 production.

4 (c) *Limitations.* 1. No amount of the salary or wages paid under par. (b) 1. may  
5 be the basis for a credit under this subsection unless the salary or wages are paid for  
6 services rendered after December 31, 2007, and directly incurred to produce the  
7 accredited production.

8 2. The total amount of the credit that may be claimed by a claimant under par.  
9 (b) 1. shall not exceed an amount equal to the first \$25,000 of salary or wages paid  
10 to each of the claimant's employees, as described in par. (b), in the taxable year, not  
11 including the salary or wages paid to the claimant's 2 highest paid employees, as  
12 described in par. (b), in the taxable year.

13 3. No credit may be allowed under this subsection unless the claimant files an  
14 application with the department of commerce, at the time and in the manner  
15 prescribed by the department of commerce, and the department of commerce  
16 approves the application. The claimant shall submit a copy of the approved  
17 application with the claimant's return.

18 4. Partnerships, limited liability companies, and tax-option corporations may  
19 not claim the credit under this subsection, but the eligibility for, and the amount of,  
20 the credit are based on their payment of amounts under par. (b). A partnership,  
21 limited liability company, or tax-option corporation shall compute the amount of  
22 credit that each of its partners, members, or shareholders may claim and shall  
23 provide that information to each of them. Partners, members of limited liability  
24 companies, and shareholders of tax-option corporations may claim the credit in  
25 proportion to their ownership interest.

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1           (d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit  
2           under sub. (4), applies to the credits under this subsection. Subsection (4) (f), as it  
3           applies to the credit under sub. (4), applies to the credits under par. (b) 1. and 3.

4           2. If the allowable amount of the claim under par. (b) 2. exceeds the tax  
5           otherwise due under s. 71.23 or no tax is due under s. 71.23, the amount of the claim  
6           not used to offset the tax due shall be certified by the department of revenue to the  
7           department of administration for payment by check, share draft, or other draft  
8           drawn from the appropriation account under s. 20.835 (2) (bm).

9           **SECTION 11.** 71.28 (5h) of the statutes is created to read:

10          **71.28 (5h)** FILM PRODUCTION COMPANY INVESTMENT CREDIT. (a) *Definitions.* In  
11          this subsection:

12          1. “Claimant” means a person who files a claim under this subsection and who  
13          does business in this state as a film production company.

14          2. “Film production company” means an entity that creates films, videos,  
15          electronic games, broadcast advertisement, or television productions, not including  
16          the productions described under s. 71.28 (5f) (a) 1. a. to h.

17          3. “Physical work” does not include preliminary activities such as planning,  
18          designing, securing financing, researching, developing specifications, or stabilizing  
19          property to prevent deterioration.

20          4. “Previously owned property” means real property that the claimant or a  
21          related person owned during the 2 years prior to doing business in this state as a film  
22          production company and for which the claimant may not deduct a loss from the sale  
23          of the property to, or an exchange of the property with, the related person under  
24          section 267 of the Internal Revenue Code.

**SENATE BILL 563****SECTION 11**

1           (b) *Filing claims.* Subject to the limitations provided in this subsection, for  
2 taxable years beginning after December 31, 2007, a claimant may claim as a credit  
3 against the tax imposed under s. 71.23, up to the amount of the taxes, for the first  
4 3 taxable years that the claimant is doing business in this state as a film production  
5 company, an amount that is equal to 15 percent of the following that the claimant  
6 paid in the taxable year to establish a film production company in this state:

7           1. The purchase price of depreciable, tangible personal property.

8           2. The amount expended to acquire, construct, rehabilitate, remodel, or repair  
9 real property.

10          (c) *Limitations.* 1. A claimant may claim the credit under par. (b) 1., if the  
11 tangible personal property is purchased after December 31, 2007, and the personal  
12 property is used for at least 50 percent of its use in the claimant's business as a film  
13 production company.

14          2. A claimant may claim the credit under par. (b) 2. for an amount expended  
15 to construct, rehabilitate, remodel, or repair real property, if the claimant began the  
16 physical work of construction, rehabilitation, remodeling, or repair, or any  
17 demolition or destruction in preparation for the physical work, after December 31,  
18 2007, or if the completed project is placed in service after December 31, 2007.

19          3. A claimant may claim the credit under par. (b) 2. for an amount expended  
20 to acquire real property, if the property is not previously owned property and if the  
21 claimant acquires the property after December 31, 2007, or if the completed project  
22 is placed in service after December 31, 2007.

23          4. No claim may be allowed under this subsection unless the department of  
24 commerce certifies, in writing, that the credits claimed under this subsection are for

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1 expenses related to establishing a film production company in this state and the  
2 claimant submits a copy of the certification with the claimant's return.

3 5. Partnerships, limited liability companies, and tax-option corporations may  
4 not claim the credit under this subsection, but the eligibility for, and the amount of,  
5 the credit are based on their payment of amounts under par. (b). A partnership,  
6 limited liability company, or tax-option corporation shall compute the amount of  
7 credit that each of its partners, members, or shareholders may claim and shall  
8 provide that information to each of them. Partners, members of limited liability  
9 companies, and shareholders of tax-option corporations may claim the credit in  
10 proportion to their ownership interests.

11 (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under  
12 sub. (4), applies to the credits under this subsection.

13 **SECTION 12.** 71.30 (3) (epp) of the statutes is created to read:

14 71.30 (3) (epp) Film production services credit under s. 71.28 (5f).

15 **SECTION 13.** 71.30 (3) (epr) of the statutes is created to read:

16 71.30 (3) (epr) Film production company investment credit under s. 71.28 (5h).

17 **SECTION 14.** 71.34 (1) (g) of the statutes, as affected by 2005 Wisconsin Act 74,  
18 is amended to read:

19 71.34 (1) (g) An addition shall be made for credits computed by a tax-option  
20 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),  
21 (3n), (3t), (5b), and (5f), (5g), and (5h) and passed through to shareholders.

22 **SECTION 15.** 71.45 (2) (a) 10. of the statutes, as affected by 2005 Wisconsin Act  
23 74, is amended to read:

24 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
25 computed under s. 71.47 (1dd) to (1dx), (3n), (5b), and (5f), (5g), and (5h) and not

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1 passed through by a partnership, limited liability company, or tax-option  
2 corporation that has added that amount to the partnership's, limited liability  
3 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and  
4 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

5 **SECTION 16.** 71.47 (5f) of the statutes is created to read:

6 **71.47 (5f) FILM PRODUCTION SERVICES CREDIT.** (a) *Definitions.* In this subsection:

7 1. "Accredited production" means a film, video, electronic game, broadcast  
8 advertisement, or television production, as approved by the department of  
9 commerce, for which the aggregate salary and wages included in the cost of the  
10 production for the period ending 12 months after the month in which the principal  
11 filming or taping of the production begins exceeds \$100,000 for a production that is  
12 30 minutes or longer or \$50,000 for a production that is less than 30 minutes.  
13 "Accredited production" does not include any of the following, regardless of the  
14 production costs:

15 a. News, current events, or public programming or a program that includes  
16 weather or market reports.

17 b. A talk show.

18 c. A production with respect to a questionnaire or contest.

19 d. A sports event or sports activity.

20 e. A gala presentation or awards show.

21 f. A finished production that solicits funds.

22 g. A production for which the production company is required under 18 USC  
23 2257 to maintain records with respect to a performer portrayed in a single media or  
24 multimedia program.



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1           h. A production produced primarily for industrial, corporate, or institutional  
2 purposes.

3           2. “Claimant” means a film production company that operates an accredited  
4 production in this state, if the company owns the copyright in the accredited  
5 production or has contracted directly with the copyright owner or a person acting on  
6 the owner’s behalf and if the company has a viable plan, as determined by the  
7 department of commerce, for the commercial distribution of the finished production.

8           3. “Production expenditures” means any expenditures that are incurred in this  
9 state and directly used to produce an accredited production, including expenditures  
10 for set construction and operation, wardrobes, make-up, clothing accessories,  
11 photography, sound recording, sound synchronization, sound mixing, lighting,  
12 editing, film processing, film transferring, special effects, visual effects, renting or  
13 leasing facilities or equipment, renting or leasing motor vehicles, food, lodging, and  
14 any other similar expenditure as determined by the department of commerce.  
15 “Production expenditures” include expenditures for music that is performed,  
16 composed, or recorded by a musician who is a resident of this state or published or  
17 distributed by an entity that has its headquarters in this state; air travel that is  
18 purchased from a travel agency or company that has its headquarters in this state;  
19 and insurance that is purchased from an insurance agency or company that has its  
20 headquarters in this state. “Production expenditures” do not include salary or wages  
21 or expenditures for the marketing and distribution of an accredited production.

22           (b) *Filing claims.* Subject to the limitations provided in this subsection, for  
23 taxable years beginning after December 31, 2007, a claimant may claim as a credit  
24 against the tax imposed under s. 71.43 any of the following amounts:

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1           1. An amount equal to 25 percent of the salary or wages paid by the claimant  
2           to the claimant's employees in the taxable year for services rendered in this state to  
3           produce an accredited production and paid to employees who were residents of this  
4           state at the time that they were paid.

5           2. An amount equal to 25 percent of the production expenditures paid by the  
6           claimant in the taxable year to produce an accredited production.

7           3. An amount equal to the taxes imposed under ss. 77.52 and 77.53 that the  
8           claimant paid in the taxable year on the purchase of tangible personal property and  
9           taxable services that are used directly in producing an accredited production in this  
10          state, including all stages from the final script stage to the distribution of the finished  
11          production.

12          (c) *Limitations.* 1. No amount of the salary or wages paid under par. (b) 1. may  
13          be the basis for a credit under this subsection unless the salary or wages are paid for  
14          services rendered after December 31, 2007, and directly incurred to produce the  
15          accredited production.

16          2. The total amount of the credit that may be claimed by a claimant under par.  
17          (b) 1. shall not exceed an amount equal to the first \$25,000 of salary or wages paid  
18          to each of the claimant's employees, as described in par. (b), in the taxable year, not  
19          including the salary or wages paid to the claimant's 2 highest paid employees, as  
20          described in par. (b), in the taxable year.

21          3. No credit may be allowed under this subsection unless the claimant files an  
22          application with the department of commerce, at the time and in the manner  
23          prescribed by the department of commerce, and the department of commerce  
24          approves the application. The claimant shall submit a copy of the approved  
25          application with the claimant's return.

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1           4. Partnerships, limited liability companies, and tax-option corporations may  
2           not claim the credit under this subsection, but the eligibility for, and the amount of,  
3           the credit are based on their payment of amounts under par. (b). A partnership,  
4           limited liability company, or tax-option corporation shall compute the amount of  
5           credit that each of its partners, members, or shareholders may claim and shall  
6           provide that information to each of them. Partners, members of limited liability  
7           companies, and shareholders of tax-option corporations may claim the credit in  
8           proportion to their ownership interest.

9           (d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the  
10          credit under s. 71.28 (4), applies to the credits under this subsection. Section 71.28  
11          (4) (f), as it applies to the credit under s. 71.28 (4), applies to the credits under par.  
12          (b) 1. and 3.

13          2. If the allowable amount of the claim under par. (b) 2. exceeds the tax  
14          otherwise due under s. 71.43 or no tax is due under s. 71.43, the amount of the claim  
15          not used to offset the tax due shall be certified by the department of revenue to the  
16          department of administration for payment by check, share draft, or other draft  
17          drawn from the appropriation account under s. 20.835 (2) (bm).

18          **SECTION 17.** 71.47 (5h) of the statutes is created to read:

19          **71.47 (5h) FILM PRODUCTION COMPANY INVESTMENT CREDIT.** (a) *Definitions.* In  
20          this subsection:

21          1. “Claimant” means a person who files a claim under this subsection and who  
22          does business in this state as a film production company.

23          2. “Film production company” means an entity that creates films, videos,  
24          electronic games, broadcast advertisement, or television productions, not including  
25          the productions described under s. 71.47 (5f) (a) 1. a. to h.

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1           3. “Physical work” does not include preliminary activities such as planning,  
2     designing, securing financing, researching, developing specifications, or stabilizing  
3     property to prevent deterioration.

4           4. “Previously owned property” means real property that the claimant or a  
5     related person owned during the 2 years prior to doing business in this state as a film  
6     production company and for which the claimant may not deduct a loss from the sale  
7     of the property to, or an exchange of the property with, the related person under  
8     section 267 of the Internal Revenue Code.

9           (b) *Filing claims.* Subject to the limitations provided in this subsection, for  
10    taxable years beginning after December 31, 2007, a claimant may claim as a credit  
11    against the tax imposed under s. 71.43, up to the amount of the taxes, for the first  
12    3 taxable years that the claimant is doing business in this state as a film production  
13    company, an amount that is equal to 15 percent of the following that the claimant  
14    paid in the taxable year to establish a film production company in this state:

15           1. The purchase price of depreciable, tangible personal property.

16           2. The amount expended to acquire, construct, rehabilitate, remodel, or repair  
17    real property.

18           (c) *Limitations.* 1. A claimant may claim the credit under par. (b) 1., if the  
19    tangible personal property is purchased after December 31, 2007, and the personal  
20    property is used for at least 50 percent of its use in the claimant’s business as a film  
21    production company.

22           2. A claimant may claim the credit under par. (b) 2. for an amount expended  
23    to construct, rehabilitate, remodel, or repair real property, if the claimant began the  
24    physical work of construction, rehabilitation, remodeling, or repair, or any

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1 demolition or destruction in preparation for the physical work, after December 31,  
2 2007, or if the completed project is placed in service after December 31, 2007.

3 3. A claimant may claim the credit under par. (b) 2. for an amount expended  
4 to acquire real property, if the property is not previously owned property and if the  
5 claimant acquires the property after December 31, 2007, or if the completed project  
6 is placed in service after December 31, 2007.

7 4. No claim may be allowed under this subsection unless the department of  
8 commerce certifies, in writing, that the credits claimed under this subsection are for  
9 expenses related to establishing a film production company in this state and the  
10 claimant submits a copy of the certification with the claimant's return.

11 5. Partnerships, limited liability companies, and tax-option corporations may  
12 not claim the credit under this subsection, but the eligibility for, and the amount of,  
13 the credit are based on their payment of amounts under par. (b). A partnership,  
14 limited liability company, or tax-option corporation shall compute the amount of  
15 credit that each of its partners, members, or shareholders may claim and shall  
16 provide that information to each of them. Partners, members of limited liability  
17 companies, and shareholders of tax-option corporations may claim the credit in  
18 proportion to their ownership interests.

19 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under  
20 s. 71.28 (4), applies to the credits under this subsection.

21 **SECTION 18.** 71.49 (1) (epp) of the statutes is created to read:

22 71.49 (1) (epp) Film production services credit under s. 71.47 (5f).

23 **SECTION 19.** 71.49 (1) (epr) of the statutes is created to read:

24 71.49 (1) (epr) Film production company investment credit under s. 71.47 (5h).

**SENATE BILL 563****SECTION 20**

1           **SECTION 20.** 77.92 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is  
2 amended to read:

3           77.92 (4) “Net business income,” with respect to a partnership, means taxable  
4 income as calculated under section 703 of the Internal Revenue Code; plus the items  
5 of income and gain under section 702 of the Internal Revenue Code, including taxable  
6 state and municipal bond interest and excluding nontaxable interest income or  
7 dividend income from federal government obligations; minus the items of loss and  
8 deduction under section 702 of the Internal Revenue Code, except items that are not  
9 deductible under s. 71.21; plus guaranteed payments to partners under section 707  
10 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),  
11 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (5b), and (5f), (5g),  
12 and (5h); and plus or minus, as appropriate, transitional adjustments, depreciation  
13 differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but  
14 excluding income, gain, loss, and deductions from farming. “Net business income,”  
15 with respect to a natural person, estate, or trust, means profit from a trade or  
16 business for federal income tax purposes and includes net income derived as an  
17 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

18           **SECTION 21m.** 560.206 of the statutes is created to read:

19           **560.206 Film production tax credits. (1)** The department shall implement  
20 a program to accredit productions for purposes of ss. 71.07 (5f) and (5h), 71.28 (5f)  
21 and (5h), and 71.47 (5f) and (5h). Application for accreditation shall be made to the  
22 department in each taxable year for which accreditation is desired.

23           **(2)** If the department accredits a production under sub. (1), the department  
24 shall determine the amount of the production’s production expenditures, as defined  
25 in s. 71.07 (5f) (a) 3.

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1                   **(3)** The department shall notify the department of revenue of every production  
2                   accredited under sub. (1) and the amount of the production's production  
3                   expenditures.

4           **(4)** The department of commerce, in consultation with the department of  
5           revenue, shall promulgate rules to administer this section.

**6 (END)**